



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNDC, FF

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which began at 2:00 p.m. and lasted approximately 14 minutes. The landlord’s two agents, “landlord EM” and “landlord AR” (collectively “landlord”) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Landlord EM confirmed that she was the general manager and landlord AR confirmed that she was the building manager, both employed by the landlord company named in this application. Both agents confirmed that they had permission to speak on the landlord company’s behalf at this hearing.

At the outset of the hearing, I asked both of the landlord’s agents to remove their telephone from speakerphone because it was causing echoing and feedback and I was unable to hear properly. Landlord AR remained on the line and landlord EM called in from a separate telephone in a separate room in order to ensure there was no echoing or feedback on the conference call. Both agents were then able to participate in the hearing together.

### Preliminary Issue – Service of Landlord’s Application

The landlord testified that the tenants were each served with a separate copy of the landlord’s application for dispute resolution hearing package on October 19, 2018, by way of registered mail. The landlord provided two Canada Post receipts and tracking numbers with this application.

When I questioned the landlord as to what address the landlord’s application was sent to, landlord AR said it was a forwarding address provided by the tenants on a piece of

paper to the landlord at the end of the tenancy. She confirmed that she did not supply this document containing this forwarding address to the Residential Tenancy Branch ("RTB"). She said that she did not know that she was required to provide this information. Landlord AR claimed that the mail was not sent back to the landlord so that meant that the tenants received it. Landlord EM claimed that although the landlord did not provide a printed tracking report from the Canada Post website, that I could look it up during the hearing to confirm.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

*89 (1) An application for dispute resolution ..., when required to be given to one party by another, must be given in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) **by sending a copy by registered mail to the address at which the person resides** or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) **if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;***
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

I find that the landlord was unable to show that the address where the landlord sent the application was a forwarding address provided by the tenants. The landlord did not provide a copy of the paper where the landlord claimed the tenants wrote this information.

Accordingly, I find that the landlord failed to prove service in accordance with section 89(1) of the *Act* and the tenants were not served with the landlord's application.

I note that the landlord had since October 13, 2017, when landlord AR claimed that the landlord's application was filed, until the date of this hearing on May 16, 2018, a period of over 7 months, to provide this evidence to the RTB.

At the hearing, I informed both landlord agents that I was dismissing the landlord's application with leave to reapply, except for the filing fee. I notified them that they would be required to file a new application and pay a new filing fee, if they wished to pursue this matter further. I cautioned them that they would have to prove service at the next hearing, including evidence of the tenants' forwarding address.

While I was providing my decision to both agents, they became upset, both speaking at the same time and asking for my name. I provided my name to both agents again, as I had at the beginning of the hearing, and informed them that it would be contained on the written decision that I would be sending to them. While I was still speaking to both agents and was attempting to ask for their preferred contact method so that I could send them a copy of this decision, they both unexpectedly disconnected from the hearing at 2:13 p.m. Therefore, I was unable to confirm the landlord's contact information or the rental unit address. I ended the hearing at 2:14 p.m. after determining that the landlord had exited the call and had not called back into the hearing.

For the landlord's information, since both agents claimed that they were not aware of the following policy and had never been asked for service information at previous RTB hearings, RTB Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service**, or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report**.*

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 16, 2018

---

Residential Tenancy Branch